

REMARKS

This is a complete response to the outstanding non-final Office Action mailed November 11, 2004. Claims 1, 7, 9, 13, 16-18, 24, 29, 30, 31, 33-35, and 37-40 have been amended herein. No new matter has been added. Upon entry of the enclosed claim amendments, claims 1-43 remain pending in the present application.

The Applicant traverses all of the objections and rejections of the Office Action. Applicant appreciates the Examiner's review of the above-identified patent application and respectfully requests reconsideration and allowance in view of the above amendments and following remarks.

I. Response to the Drawings

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(5). Applicant has amended the specification to reference items 160A, 160B, 160C, 160D, 160E, 160F, and 160N of Figure 1. Applicant respectfully requests the withdrawal of the drawings objection.

II. Response to Claim Objections and Rejection -34 USC § 112

Claim 7 has been amended to remove the typographical error of

the phrase "to be".

Claim 9 has been amended to include the word "be" between the words "to" and "sent" and correct the typographical error.

Claims 13, 24, 37, 38, 39, 40 have been amended to recite "a transfer of a communication" and correct the lack of antecedent basis problem.

Claims 16 and 18 have been amended to correct claim dependency. Amended claim 16 now depends on claim 1. Amended claim 18 now depends on claim 15. Claims 16, 17, and 18 are no longer duplicate claims.

Claim 13 has been amended to recite "a first device" and correct the lack of antecedent basis problem.

Claims 16, 17, and 18 have been amended to correct the typographical error and now correctly recite "said second communication session information". Amended claims 16, 17, and 18 correct the lack of antecedent basis problem.

Claim 22 recites the limitation "said first communication session". Applicant believes that line 2 of claim 13 from which claim 22 depends provides antecedent basis for "said first communication session".

Claim 30 has been amended to recite "a second communication

session" and correct the lack of antecedent basis problem.

Claim 33 has been amended to recite "said second communication session". The amended claim 33 corrects a typographical error and corrects the lack of antecedent basis problem.

Claim 38 has been amended to recite "said destination address". The amended claim 38 corrects a typographical error and corrects the lack of antecedent basis problem.

Claim 39 has been amended to recite "said destination". The amended claim 39 corrects a typographical error and corrects the lack of antecedent basis problem.

Claims 29, 31, 33, 33-35, and 37 have been amended to more particularly point out and distinctly claim the subject matter, which Applicant regards as the invention. The amended claims have removed the word "if".

Applicant appreciates the Examiner's thorough review of the application. The above amendments should correct all objections raised by the Examiner. Applicant respectfully requests reconsideration and withdrawal of the objections in view of the above amendments.

III. Response to Claim Rejections Based on Anticipation

In the Office Action, claims 1-24 and 26-43 have been preliminarily rejected as anticipated under 35 U.S.C. § 102(e). Specifically claims 1-24 and 26-43 have been rejected under 35 U.S.C. § 102(e) by U.S. Patent Application No. 2001/0054064 to Kannan (hereinafter, "Kannan"). The Office Action omits discussion of the claim element referenced below and mischaracterizes Kannan, thus no *prima facie* case of anticipation has been made.

A. Claim 1

Independent claim 1 reads:

A method of facilitating the transfer of a communication when **a first communication session has been established between a first device of an agent and a second device of a customer**, said method comprising the steps of: causing a list of destinations for **a second communication session to be presented at said first device of said agent**; receiving a selection of a selected destination from said list of destinations for said second communication session at said first device; causing a request to transfer said second device of said customer to said second communication session to be sent to said selected destination; and **causing second communication session information to be sent to said second device**.

(*Emphasis Added*)

The Applicant respectfully submits that the reference Kannan

fails to disclose, teach, or suggest all of the above-emphasized elements of amended claim 1. Specifically, Kannan does not disclose **a first communication session established between a first device of an agent and a second device of a customer.** The Office Action cites to paragraph 92, lines 1-2, paragraph 93, lines 1-2, figure 5A, items 500 and 520, however, this does not disclose the above claimed elements. Item 500 of Kannan is a web server, not a device of the customer service representative. The web server of Kannan handles communications for multiple customer service representatives. Item 540 is the browser of the customer service representative. The first communication session is not established between the agent and the customer. Therefore Kannan does not disclose the above-emphasized elements of claim 1.

Kannan also does not disclose causing a list of destinations for a second communication session to be presented **at said first device of said agent.** Kannan discloses a customer service representative queue (fig. 6, item 614). This queue is not presented to the first device of the agent. Therefore Kannan does not disclose the above-emphasized elements of claim 1 and the anticipation rejection of claim 1 should be withdrawn.

In addition, Kannan does not disclose **causing second**

communication session information to be sent to said second device of said customer. The Office Action references storing a customer query in a matched customer query queue corresponding to the virtual room of the matched customer server representative (paragraph 99, lines 1-5 of Kannan). This does not disclose sending second communication session information to the device of the customer. The Office Action seems to attempt to make connections and draw conclusions based on what the Examiner deems to be common knowledge or common sense. Recently, Judge Newman, in her opinion in *In re Lee*, 277 F.3d. 1338, 1343, 61 USPQ2d 1430 (Fed Cir. 2002), repeated a fundamental principle that an Examination cannot simply rely upon "common knowledge" or "common sense" (even when couched in terms of "Official Notice"):

The "common knowledge and common sense" on which the Board relied in rejecting Lee's application are not the specialized knowledge and expertise contemplated . . . The Board's findings must extend to all material facts and must be **documented on the record**, lest the "haze of so-called expertise" acquires insulation from accountability. "**Common knowledge and common sense**", **even if assumed to derive from the agency's expertise, do not substitute for authority when the law requires authority.** *Id.*

The references must disclose every element of the Applicant's claim. The Office Action has not made a prima facie case of anticipation. Kannan does not disclose causing the second

communication session information to be sent to the second device of said customer as recited in Applicant's claim 1. For at least this reason as well as the additional, above-discussed reasons the claim rejection of anticipation should be withdrawn and claim 1 should be allowed as amended.

B. Claims 2 - 9

The Applicant respectfully submits that since claims 2 - 9 depend on independent claim 1, claims 2 - 9 contain all limitations of independent claim 1. Since independent claim 1 should be allowed, as argued herein, pending dependent claims 2 - 9 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

C. Claim 13

The Applicant respectfully submits that the reference Kannan does not disclose a transfer of a communication when **a first communication session has been established between a first device of an agent and a second device of a customer** as recited in Applicant's claim 13. As previously discussed with regard to claim 1, Kannan discloses a communication session with a web server (Figure 5A, item 500 of Kannan) and a device of the customer service representative (Figure 5A, item 520 of Kannan).

This does not disclose the above-emphasized element of Applicant's claim 13. Kannan also does not disclose causing a list of destinations for a second communication session to be presented **at said first device of said agent**. In addition, Kannan does not disclose **causing second communication session information to be sent to said second device of said customer**. Support for the lack of disclosure for both features is discussed in detail with regard to the discussion of claim 1. For at least these reasons Kannan does not disclose, teach, or suggest Applicant's claimed invention and the anticipation rejection should be withdrawn.

D. Claims 14 - 23

The Applicant respectfully submits that since claims 14 - 23 depend on independent claim 13, claims 14 - 23 contain all limitations of independent claim 13. Since independent claim 13 should be allowed, as argued herein, pending dependent claims 14 - 23 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

E. Claim 24

Independent claim 24 reads:

A method for facilitating a transfer of a communication when a first communication session has been established between **a first device of an agent and a second device of a customer**, said method comprising the steps of: **receiving a request from the first device of said agent to transfer said second device of said customer to a second communication session**; causing a warm transfer page to be created for said second communication session; causing said warm transfer page to be sent to said second device; and causing a requested connection of said second device to said warm transfer page to be accepted.

(Emphasis Added)

The Applicant respectfully submits that the reference Kannan fail to disclose, teach, or suggest all of the above-emphasized elements of amended claim 24. The Office Action cites to a customer browser (Fig. 5A, item 520 of Kannan) as disclosing a first device of an agent and the customer service representative browser (Fig. 5A, item 540 of Kannan) as disclosing the second device of a customer. Applicant has amended claim 24 to recite **a first communication session established between a first device of an agent and a second device of a customer**. This is opposite to what is cited in the Office Action and Applicant contends that the arguments presented in the Office Action are no longer applicable to amended claim 24.

Amended claim 24 recites, "receiving a request **from the first**

device of said agent to transfer said second device of said customer to a second communication session." Kannan does not disclose the first device of the agent requesting a transfer of the second device. Kannan discloses a Query/CSR matcher providing a match of customer query to customer service representative.

In addition, Kannan does not disclose causing a warm transfer page to be created for said second communication session. Kannan discloses a customer service dialog window used for inputting a query, however, this does not relate to a second communication session. Therefore Kannan does not disclose the above-emphasized elements of claim 24 and the anticipation rejection of claim 24 should be withdrawn.

F. Claims 25 - 29

The Applicant respectfully submits that since claims 25 - 29 depend on independent claim 24, claims 25 - 29 contain all limitations of independent claim 24. Since independent claim 24 should be allowed, as argued herein, pending dependent claims 25 - 29 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

G. Claim 30

The Applicant respectfully submits that the reference Kannan does not disclose transferring a communication when a first communication session has been established between a first device of an agent and a second device of a customer as recited in Applicant's claim 30. As previously discussed with regard to claim 1, Kannan discloses a communication session with a web server (Figure 5A, item 500 of Kannan) and a device of the customer service representative (Figure 5A, item 520 of Kannan).

This does not disclose the above-emphasized element of Applicant's claim 13. Kannan also does not disclose causing receiving a request from the first device of the agent to transfer said second device of the customer to a second communication session. Support for the lack of disclosure for both features is discussed in detail with regard to the discussion of claim 1. For at least these reasons Kannan does not disclose, teach, or suggest Applicant's claimed invention and the anticipation rejection should be withdrawn.

H. Claims 31-33

The Applicant respectfully submits that since claims 31-33 depend on independent claim 30, claims 31-33 contain all limitations of independent claim 30. Since independent claim 30 should be allowed, as argued herein, pending dependent claims 31-33 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

I. Claim 34

The Applicant respectfully submits that the reference Kannan fails to disclose, teach, or suggest all elements of amended claim 34. The Office Action cites to a customer browser (Fig. 5A, item 520 of Kannan) as disclosing a first device of an agent and the customer service representative browser (Fig. 5A, item 540 of Kannan) as disclosing the second device of a customer. Applicant has amended claim 34 to recite a first communication session has been established between **a first device of an agent** and **a second device of a customer** using an intermediate device. This is opposite to what is cited in the Office Action and Applicant contends that the arguments presented in the Office Action are no longer applicable to amended claim 34.

J. Claims 35 - 36

The Applicant respectfully submits that since claims 35 - 36 depend on independent claim 34, claims 35 - 36 contain all limitations of independent claim 34. Since independent claim 34 should be allowed, as argued herein, pending dependent claims 35 - 36 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

K. Claim 37

The Applicant respectfully submits that the reference Kannan fails to disclose, teach, or suggest all elements of amended claim 37. The Office Action cites to a customer browser (Fig. 5A, item 520 of Kannan) as disclosing a first device of an agent and the customer service representative browser (Fig. 5A, item 540 of Kannan) as disclosing the second device of a customer. Applicant has amended claim 37 to recite a first communication session has been established between **a first device of an agent** and **a second device of a customer** using an intermediate device. This is opposite to what is cited in the Office Action and Applicant contends that the arguments presented in the Office Action are no longer applicable to amended claim 37.

In addition, Kannan does not disclose **causing second communication session information to be sent to said second device of said customer.** As previously discussed with regard to claim 2, the Office Action references storing a customer query in a matched customer query queue corresponding to the virtual room of the matched customer server representative (paragraph 99, lines 1-5 of Kannan). This does not disclose sending second communication session information to the device of the customer.

L. Claim 38

The Applicant respectfully submits that the reference Kannan fails to disclose, teach, or suggest all of the above-emphasized elements of amended claim 38. Specifically, Kannan does not disclose facilitating the transfer of a communication when **a first communication session is established between a first device of an agent and a second device of a customer.** The Office Action cites to figure 5A, items 500 and 520, however, this does not disclose the above claimed elements. Item 500 of Kannan is a web server, not a device of the customer service representative. The web server of Kannan handles communications for multiple customer service representatives. Item 540 is the browser of the customer

service representative. The first communication session is not established between the agent and the customer. Therefore Kannan does not disclose the above-emphasized elements of claim 38.

M. Claim 39

The Applicant respectfully submits that the reference Kannan fails to disclose, teach, or suggest all of the elements of amended claim 39. Specifically, Kannan does not disclose facilitating the transfer of a communication when ***a first communication session is established between a first device of an agent and a second device of a customer.*** The Office Action cites to figure 5A, items 500 and 520, however, this does not disclose the above claimed elements. Item 500 of Kannan is a web server, not a device of the customer service representative. The web server of Kannan handles communications for multiple customer service representatives. Item 540 is the browser of the customer service representative. The first communication session is not established between the agent and the customer. Therefore Kannan does not disclose the above-emphasized elements of claim 39.

Kannan also does not disclose causing a list of destinations for a second communication session to be presented ***at said first***

device of said agent. Kannan discloses a customer service representative queue (fig. 6, item 614). This queue is not presented to the first device of the agent. Therefore Kannan does not disclose the above elements of claim 39 and the anticipation rejection of claim 39 should be withdrawn.

N. Claim 40

The Applicant respectfully submits that the reference Kannan fails to disclose, teach, or suggest all of the amended claim 40. Specifically, Kannan does not disclose facilitating the transfer of a communication when **a first communication session is established between a first device of an agent and a second device of a customer.** The Office Action cites to figure 5A, items 500 and 520, however, this does not disclose the above claimed elements. Item 500 of Kannan is a web server, not a device of the customer service representative. The web server of Kannan handles communications for multiple customer service representatives. Item 540 is the browser of the customer service representative. The first communication session is not established between the agent and the customer. Therefore Kannan does not disclose the above-emphasized elements of claim 40.

O. Claims 41 - 43

The Applicant respectfully submits that since claims 41 - 43 depend on independent claim 40, claims 41 - 43 contain all limitations of independent claim 40. Since independent claim 40 should be allowed, as argued herein, pending dependent claims 41 - 43 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q.2d 1596, 1608 (Fed. Cir. 1988).

IV. Response to Claim Rejections Based on Obviousness

In the Office Action, claim 25 has been preliminarily rejected as obvious under 35 U.S.C. § 103. Specifically claim 25 has been rejected under 35 U.S.C. § 103 by U.S. Patent Application No. 2002/0161896 to Kannan (hereinafter, "Kannan") in view of U.S. patent No. 6,185,586 to Judson (hereinafter, "Judson").

A. Claim 25

The Applicant respectfully submits that the references Kannan in view of Judson fail to disclose, teach, or suggest all elements of claim 25. As previously discussed with regard to claim 24, Applicant has amended claim 24 to recite **a first**

communication session established between a first device of an agent and a second device of a customer. This is opposite to what is cited in the Office Action and Applicant contends that the arguments presented in the Office Action are no longer applicable to amended claim 24 and dependent claim 25. Judson does not cure this deficiency.

As previously discussed with regard to amended claim 24, Kannan does not disclose the first device of the agent requesting a transfer of the second device. In addition, Kannan does not disclose causing a warm transfer page to be created for said second communication session. Judson again does not cure these deficiencies. Therefore Kannan in view of Judson does not disclose the above elements of claim 24 and dependent claim 25.

The obviousness rejection should be withdrawn for at least the above reasons.

V. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

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CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1-43 are in condition for allowance. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. The examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

Sam Wen et al.

By


Andrew R. Martin, Esq.
Registration No. 45,413
Attorney for Applicant

BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

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